

6 September 2021

Ms Kate O'Rourke
First Assistant Secretary
Consumer Data Right Division
The Treasury

By email: data@treasury.gov.au

Dear Ms O'Rourke

Implementation of an economy-wide Consumer Data Right - Strategic Assessment

COBA appreciates the opportunity to provide a submission on the Consumer Data Right (CDR) Strategic Assessment Consultation.

COBA is the industry association for Australia's customer owned banking institutions (mutual banks, credit unions and building societies). Collectively, our sector has \$147 billion in assets. Customer owned banking institutions account for around two thirds of the total number of domestic Authorised Deposit-taking Institutions (ADIs) and deliver competition and market leading levels of customer satisfaction in the retail banking market.

We see the CDR as having huge potential to benefit consumers and drive competition in banking and potentially in other markets. Customer owned banking institutions are on the consumer's side.

We support the objectives of the CDR regime outlined in the Strategic Assessment Consultation Paper, i.e. enhanced competition and efficiency, bringing consumer value and new services.

We agree that an economy-wide CDR has the potential to transform the way consumers interact with data, how they make informed choices about the products and services, and how services are designed to best meet a diverse range of needs and circumstances.

The Strategic Assessment is an opportunity to guide the implementation of the CDR into the future and ensure it is consumer-led but the best way forward is to undertake a searching review of implementation of CDR in banking.

KEY POINTS

- 1. Regulatory interventions divert scarce resources away from other priorities for regulated entities, such as investment in product innovation, better service and risk management. Where the regulatory intervention is novel, technical and elaborate, it is even more important to optimise consultation for all relevant stakeholders and provide adequate transition periods.**
- 2. Given that all regulatory reforms are essentially propositions to be tested and should therefore be evaluated for their effectiveness, it is now time to perform a post-implementation assessment of CDR's implementation to date.**
- 3. Optimising CDR will require a sustained effort to uplift financial literacy and data literacy. A bank account is a valuable data asset but consumers are more focused on ensuring this data remains securely protected than exploiting the data for their own benefit.**

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- 4. Awareness of CDR is low and understanding of the benefits is even lower. Customers are unlikely to share data under CDR without a clear, demonstrable benefit to doing so. As such, increasing awareness of CDR is not as important as increasing understanding of the benefits for customers.**
- 5. In designing a roadmap for the economy-wide rollout of the CDR, factor in the environment of rising threats to cybersecurity and the broader responses to this environment by Government and other stakeholders.**

Observations about implementation of CDR in banking

Some COBA members are leaders in the CDR space, notably Regional Australia Bank,¹ but other COBA members question the high priority the Government has maintained for CDR implementation, given the lack of consumer demand and a very crowded regulatory change schedule for banking.

Regulatory interventions divert scarce resources away from other priorities for regulated entities, such as investment in product innovation, better service and risk management.

Where the regulatory intervention is novel, technical and elaborate, with multiple regulators, multiple layers of requirements and complex sequencing of rules and standards, it is even more important to optimise consultation for all relevant stakeholders and provide adequate transition periods.

COBA members are strongly committed to protecting the security of customer data and this has been their top priority in working towards compliance with CDR obligations. CDR compliance is about enabling customers who wish to share their data with accredited recipients to do so in a safe and secure way. Above all, COBA members are determined to preserve the customer trust they have built up over decades.

Some COBA members, along with other non-major banks, have received extensions of time to comply with CDR obligations in the form of formal exemptions provided by the CDR regulator, the ACCC. Other COBA members and non-major banks are working closely with the ACCC on individual roadmaps to compliance.

COBA members take all regulatory compliance obligations very seriously but there can be no compromise to the strong protection of the security of customer data.

Implementation of CDR is a significant and complex technology transformation project occurring against a backdrop of a global pandemic and many other non-CDR regulatory change projects. This has proved challenging to all stakeholders, including banking institutions, their key technology suppliers and the ACCC as lead regulator.

This is a new, highly-technical reform in a new regulatory space. More than 12 months after CDR commencement for major banks, the ACCC was still in the process of developing tools to assist banking institutions to test their CDR solutions, such as mock registers, mock data holders and mock data recipients. The commercial marketplace for CDR compliance solutions is developing rather than mature.

The ACCC earlier this year needed to provide additional resources to improve the performance of its Conformance Test Suite which is a crucial part of the process for banking institutions to validate their CDR solutions.

Halfway through the first year of CDR implementation with the major banks, responsibility for CDR policymaking was shifted from the ACCC to Treasury.

¹ Regional Australia Bank is one of only two banks that are Accredited Data Recipients. The other is CBA.

The CDR regime comprises legislation, Rules, Standards and guidance, but the regime is not limited to technical issues of data transfer and security: *“As well as requirements for Application Programming Interfaces (APIs) – in the form of common standards for the APIs that will be used to share machine readable data between CDR users – responsible design of protocol for the exchange of consumer data under CDR requires sensitivity to human contexts of data sharing, including consideration of consumer vulnerability, inclusive user interfaces, and alertness towards privacy implications and other ramifications of automation.”*²

Given the complexity of such a novel and evolving regulatory regime and the need for certainty and clarity, all these elements must be subject to adequate consultation and completely settled before regulated entities can commence implementation.

The nature and context of implementing CDR underlines the importance of regulators taking a pragmatic approach to enforcement during early stages. High priority must be given to ensuring data is secure and that consumer confidence in data security is maintained.

The 2017 Open Banking Review³ recommended a timely post-implementation assessment of the Open Banking regime: *“A post-implementation assessment of Open Banking should be conducted by the regulator (or an independent person) approximately 12 months after the Commencement Date and report to the Minister with recommendations.”*

The Review noted that:

“While it is expected that Open Banking will deliver major benefits, all regulatory reforms are essentially propositions to be tested and should therefore be evaluated for their effectiveness.”

COBA suggests that this assessment should not be any further delayed. It will provide valuable insights into CDR implementation in the banking sector for application in extending the CDR to other sectors. It will be an opportunity to review the assumption that all entities in a given sector should be compelled into the CDR regime, rather than just a critical mass of the largest and best resourced entities with smaller players to be drawn in by consumer demand and competitive forces.

A Post Implementation Review could also test the proposition that, in such a large and complex implementation project, *“large incumbents are better resourced to meet technical compliance – there is a risk they may dominate the ecosystem, nullify its impact on competition, and increase barriers to switching.”*⁴

Such a review could also explore how to most effectively balance the sometimes competing interests of key stakeholders: *“In CDR consultations to date, fintechs have been the group most vocal in nominating consent fatigue as a reason for ‘smoothing’ consent requirements of CDR systems. This is a legitimate factor to consider in data standards design, but one that should be balanced by a recognition that service providers have an incentive to prioritise service uptake over other factors. In seeking to balance the interests of consumer and commercial stakeholders CDR regulators may be able to draw on comparable tensions between provider and consumer use cases that have been debated in the health sector for over a decade.”*⁵

² [Consumer Policy Research Centre CDR Report 1](#)

³ [Review into Open Banking in Australia](#)

⁴ [Consumer Policy Research Centre CDR Report 1](#)

⁵ [Consumer Policy Research Centre CDR Report 1](#)

Aligning implementation with consumer demand

The promise of the CDR is consumer benefits *and* better protection for consumer data that is shared.

In terms of protection, CDR immediately delivers a safer environment than the current 'screen scraping' practice where consumers disclose passwords to third parties.

However, "*CDR is not on the consumer radar.*"⁶

In the UK, 18 months after inception of Open Banking, despite steady growth in awareness and uptake, only around 0.5 per cent of the population were estimated to be involved in Open Banking transactions.⁷

In hindsight, perhaps 'Open Banking' was not the best term to promote CDR. Banking ranks well ahead of most other sectors in terms of consumer trust that information (and money) is safe and well secured. However, 'Open Banking' implies an open environment rather than a secure and protected one.

Clearly, consumer trust is crucial for CDR's success, as highlighted in the Consumer Policy Research Centre (CPRC) report commissioned by the CDR Data Standards Body (DSB): "*Trust is a complex issue that applies to consumer experience and perception of CDR in a variety of ways: trust that the system is secure; trust that the law will protect consumers while using it; and trust that businesses are delivering products and services that are safe, fair, and of good quality.*"⁸

A bank account is a valuable data asset, but consumers are more focused on ensuring this data remains securely protected than on exploiting the data for their own benefit. Optimising CDR will require a sustained effort to uplift financial literacy and data literacy.

Consumer research⁹ by RFi Group (Appendix A) indicates that awareness of Open Banking/CDR remains low and understanding of the benefits is even lower. In other key findings:

- Customers are unlikely to share data under CDR without a clear, demonstrable benefit to doing so. As such, increasing awareness of CDR is not as important as increasing understanding of the benefits for customers, and
- Supporting customers with PFM/ budgeting is a clear use case for Open Banking that resonates with younger customers in particular. These customers report struggling with managing their finances and are already beginning to ask for access to tools that would give them greater visibility and control of their money.

⁶ [Consumer Policy Research Centre CDR Report 1](#)

⁷ [Equifax research on Open Banking in the UK.](#)

⁸ [Consumer Policy Research Centre CDR Report 1](#)

⁹ The State of Open Banking in Australia 2021, RFi Group

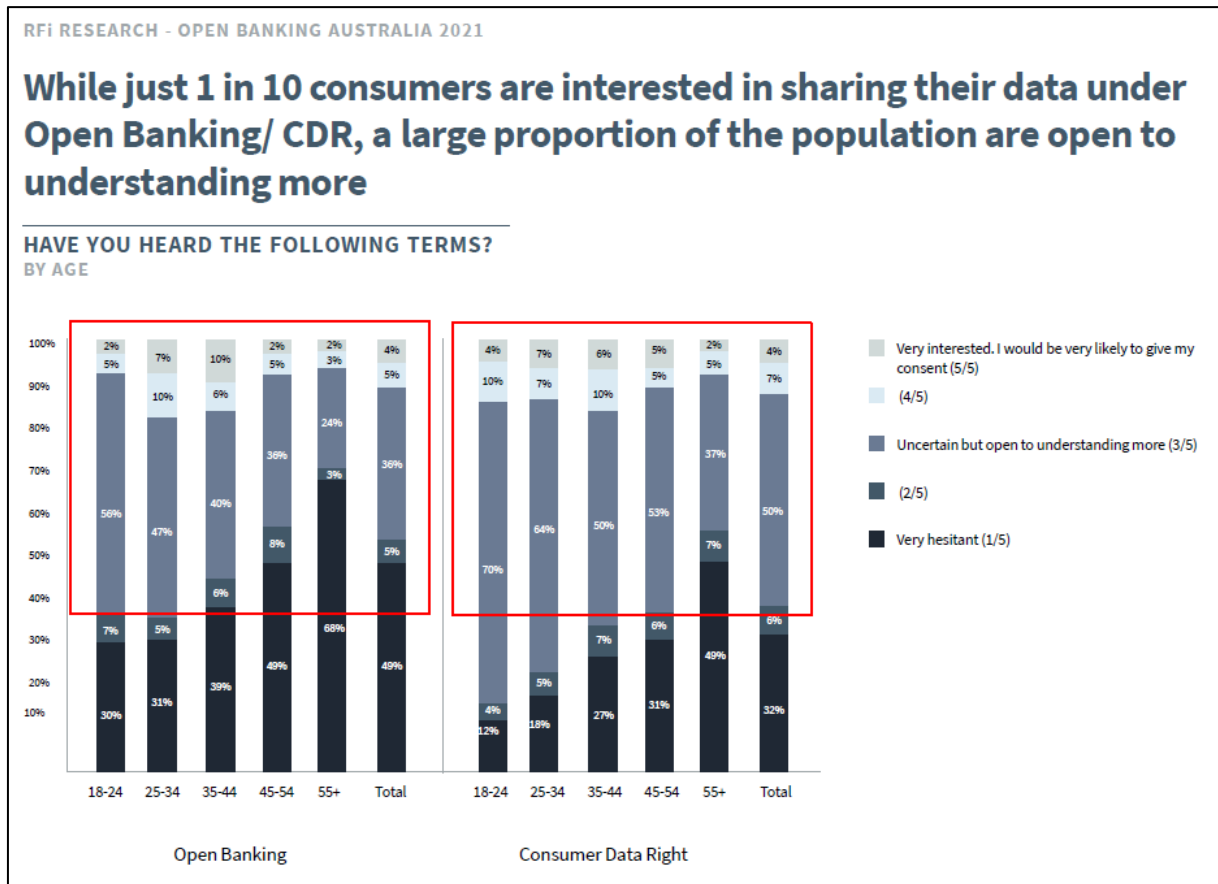


Figure 1: Excerpt from RFI research highlighting consumer awareness

These findings underline the importance of the recommendations below from the CPRC report:

- Diversify awareness programs and information assets for the CDR beyond outmoded concepts of an ‘average consumer’ and utilise the Data Standards’ CX Principles in seeking to support the variety and variability of consumer experiences in communications campaigns.
- Promote safe, data conscious behaviour in the networked economy more broadly as part of CDR outreach; as a means of achieving positive consumer outcomes, growing consumer confidence in CDR, and increasing consumer investment in the value of their data.
- Recognise consumers as being experts in their own lives, and value the experience of vulnerable, marginalised, and digitally excluded consumers as a key evidence source for understanding where CDR data can provide broader social and economic benefits while improving individual outcomes.

The RFI research also reinforces the CPRC report’s observation that consumer experiences and outcomes differ vastly according to whose needs, preferences, characteristics, and interactions are being considered: “*International studies evaluating the reach of open banking in the UK, and consumer law implications of the EU’s single market, show the concept of the ‘average consumer’ to be redundant.*”

Consumer surveys show that 95 per cent of respondents agree that companies should give an option to opt out of certain types of information they can collect, use and share¹⁰ and 83 per cent think it is very or somewhat unacceptable for companies to make use of their payment behaviour data to assess their eligibility for essential products and services.

¹⁰ [Consumer Policy Research Centre CDR Report 1](#)

The Government's initiatives in digitising health care through My Health Record and having consumers' health information accessible online in 2019 led to conversations about privacy and the willingness of the Australian public to have their information online and available to healthcare providers. Research published by the Consumers Health Forum of Australia highlights that for consumers to opt-out of making use of My Health Records, it requires consumers to have "*sufficient health literacy and digital literacy as well as digital access, and not all Australians do.*"¹¹

This research highlighted the need for transparency about policies and procedures for access to My Health Record information by law enforcement and other government agencies.

Cybersecurity and cyber threats

A hugely important factor in designing a roadmap for the economy-wide rollout of the CDR is the environment of rising threats to cybersecurity.

APRA's 2021-25 corporate plan¹² says cyber threats continue to be a material prudential risk, with increasing frequency and sophistication of cyber-attacks having the potential to create significant harms to the Australian financial system. APRA sees cyber resilience as an enduring strategic priority.

ASIC's 2021-25 corporate plan¹³ says a key priority is supporting enhanced cyber resilience and cyber security among ASIC's regulated population, in line with the whole-of-government commitment to mitigating cyber security risks.

There is an increasing awareness across the financial services industry and the Australian economy more broadly, about the importance of cybersecurity and protecting our critical infrastructure. The Federal Government has sharpened its focus on cybersecurity and its most recent strategy has allocated \$1.7 billion in funding over the next ten years and is focused as stated in its strategy, to "*identify cyber threats, disrupt foreign cyber criminals and increase partnerships with industry and other governments.*"¹⁴

This emphasis by key regulators of the financial services industry, recognises the increasing threat posed by cybercrime and the risk to data stored within financial service providers. Customer owned banks are investing heavily in technology that includes regulator-driven investment requirements in cybersecurity, reporting and data analysis capacity, and AML/CTF vigilance. Market and consumer-driven investment requirements include the need to update and replace legacy systems, cost reduction, risk management, partnering capacity, APIs and robotics, and meeting changing customer needs and expectations.

KPMG's 2020 Mutuals Industry Review reported that in 2020, the mutuals industry spent \$231 million on technology expenses, an 8 percent rise from 2019 levels, and was driven primarily by technology expenditure in cybersecurity, mobile banking and technology changes to meet new regulatory requirements.¹⁵

The functioning of Australia's banking system is dependent on a secure cyber environment. Our members are highly aware of the risk posed by the evolving nature of cybercrime and responding to this risk is a high priority for our sector. Our members dedicate considerable resources towards maintaining and developing defences, and ensuring they are compliant with existing cyber security obligations under the various frameworks.

¹¹ [Consumers Health Forum of Australia research](#)

¹² [APRA Corporate Plan 2021-25](#)

¹³ [ASIC Corporate Plan 2021-25](#)

¹⁴ [Federal Government 2020 Cyber Security Strategy](#)

¹⁵ [KPMG Mutuals Review 2020](#).

COBA recommends that as Treasury looks at extending the CDR to other sectors and identifies datasets that would be suitable for sharing, it conducts a thorough security and risk assessment so that consumers' trust in the digital market is safeguarded.

The perceived benefits of sharing data and considering which datasets are secure and non-sensitive enough to share, should be measured against the uptake by consumers and cost on industry for making these datasets available.

For example, in the banking context the treatment of CDR data shared direct-to-consumer is unresolved because this data would not be subject to the same protection as data shared with an accredited data recipient.

In drafting the roadmap, we encourage Treasury to keep at the forefront of its considerations the key issues¹⁶ for consumers.

As noted in the CPRC report, the relative importance ascribed by consumers to key issues affecting their use of digital markets, data portability, and open banking vary, e.g. due to demographics and survey design, but the core themes are largely consistent. These are:

- trust and transparency
- comprehension and consent
- privacy and security
- fairness and accountability, and
- retaining control over their data.

Thank you for the opportunity to respond to this consultation. If you wish to discuss any aspect of this submission, please contact Esther Rajadurai (erajadurai@coba.asn.au).

Yours sincerely



Michael Lawrence
Chief Executive Officer

¹⁶ [Consumer Policy Research Centre CDR Report 1](#)



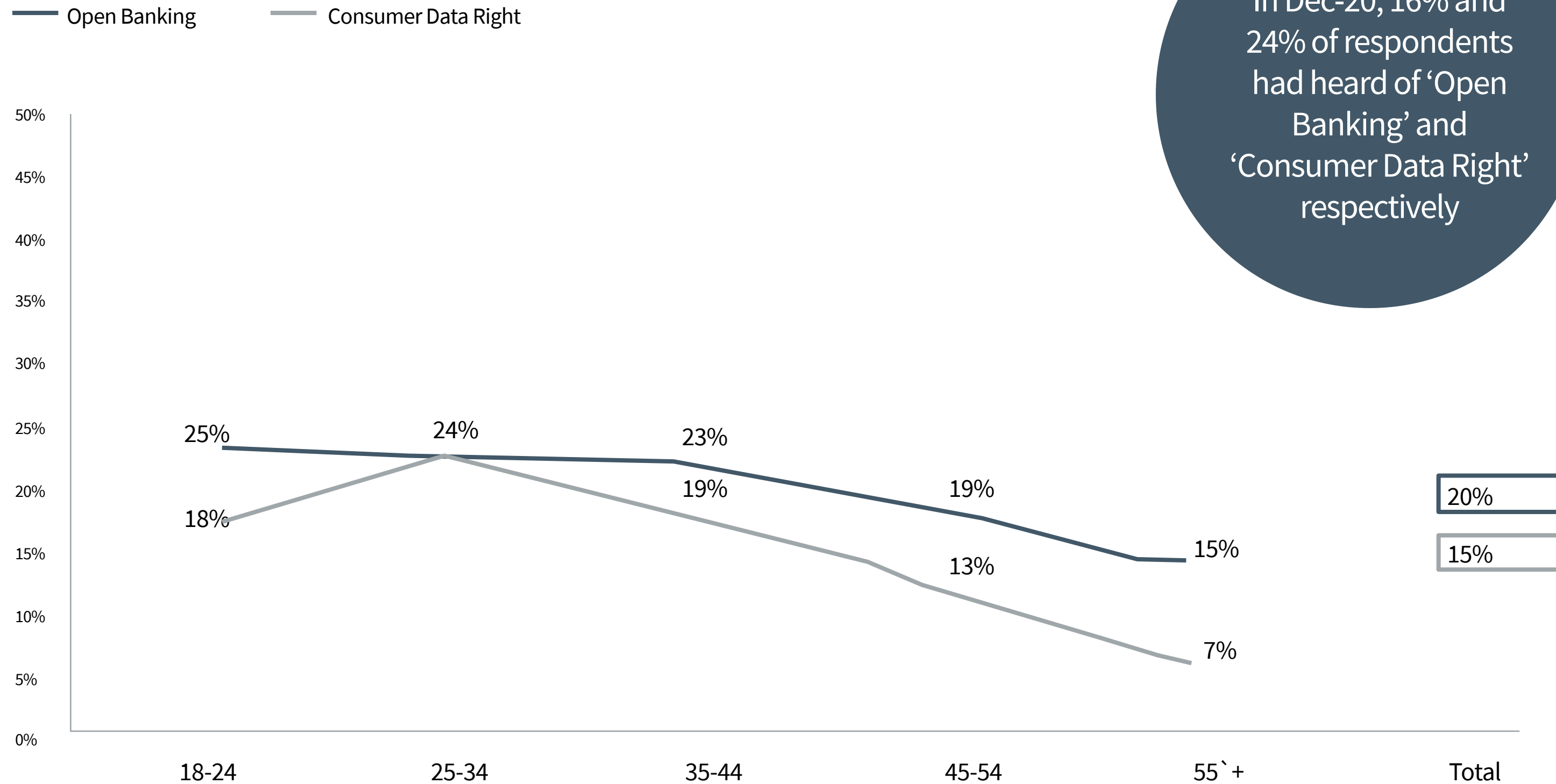
The State of Open Banking in Australia

Kate Wilson – RFi Group

Update on the current state of Open Banking in Australia

Awareness of both 'Open Banking' and 'Consumer Data Right' remains relatively low in Australia

HAVE YOU HEARD THE FOLLOWING TERMS? BY AGE



And understanding of these terms is even lower

WHAT HAVE YOU HEARD ABOUT 'OPEN BANKING'?

VERBATIMS

MOSTLY UNDERSTANDS OPEN BANKING (<1%)

“Customers can choose to share this data with third parties such as other banks, other financial services providers, or even providers not currently operating in industry.”

“A secure way to give service providers access to your financial information. It’s an innovation that allows third parties to build apps and services around financial institutions like banks.”

“It will give you control over your banking data, making it easier to switch products and find better deals.”

UNDERSTANDS SOME ELEMENTS OF OPEN BANKING (3%)

“Banking information would be shared between banks.”

“It is a means to provide all of your transaction details to a third party”

“Seamless sharing of data and ability to switch accounts between different banks”

UNDERSTANDS SOME ELEMENTS OF OPEN BANKING (3%)

“Ability for other banks to access my account details”

“ It can reveal your other accounts with other banks in your main banking app”

“It can improve customer service, open up opportunities to gain knowledge of new financial products”

JUST HEARD THAT IT BRINGS BENEFITS (3%)

“It’s good and flexible. Power back to the consumer”

“It makes it easier to switch banks.”

“New, easy ways to bank”

HAVE ONLY HEARD THE TERM OR DO NOT UNDERSTAND IT(8%)

“I have heard the name but do not know exactly what it is”

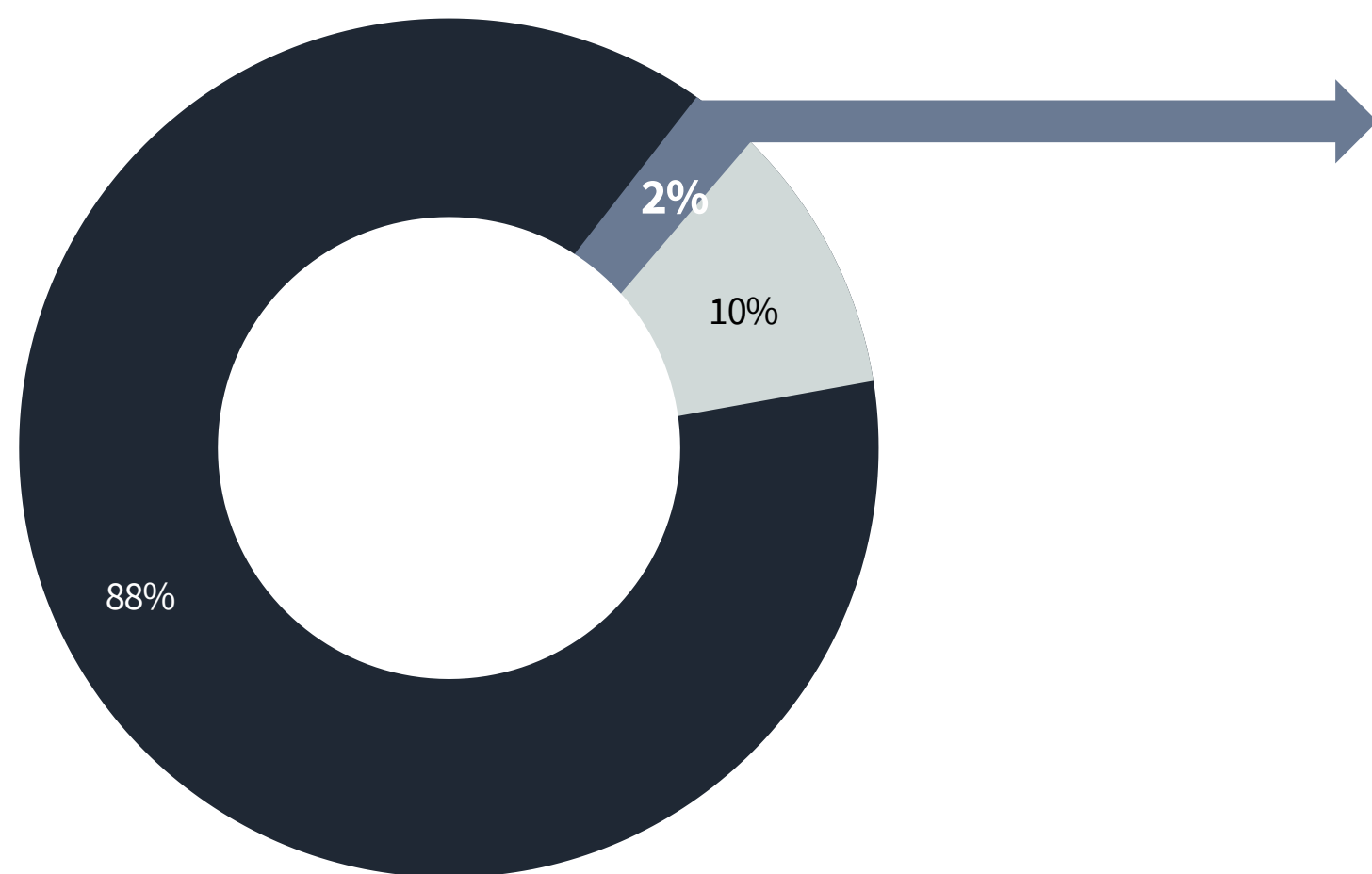
“I’ve just heard the term open banking. I know nothing about it

“Just heard the term

A small proportion of Australians are beginning to use aggregation services, mostly for budgeting/ financial management

HAVE YOU EVER USED AN APP OR OTHER SERVICE THAT ALLOWED YOU TO LINK AND VIEW YOUR BANK ACCOUNTS ACROSS MULTIPLE PROVIDERS SO THAT YOU COULD MONITOR ALL YOUR ACCOUNTS IN ONE VIEW?

■ Yes ■ I'm not sure ■ No



WHAT DO / DID YOU PRIMARILY USE IT FOR? CONSUMERS WHO HAVE USED AN APP OR SERVICE WHICH HELPS TO MONITOR ALL ACCOUNTS IN ONE VIEW²

myprosperity -
“Keep an update on my financial position”

Humaniti -
“Consolidated view of all my accounts”

WeMoney -
“Monitor my spending and net worth”

Humaniti -
“Viewing all financial accounts in one place and complete surveys”

Qantas Money -
“Earning some Qantas points”

Humaniti - “I started to use it for taking surveys and consumer forums, but when it started pushing the concept of adding & linking all of my financial data on the site so I could manage it from one site, I cancelled my subscription”

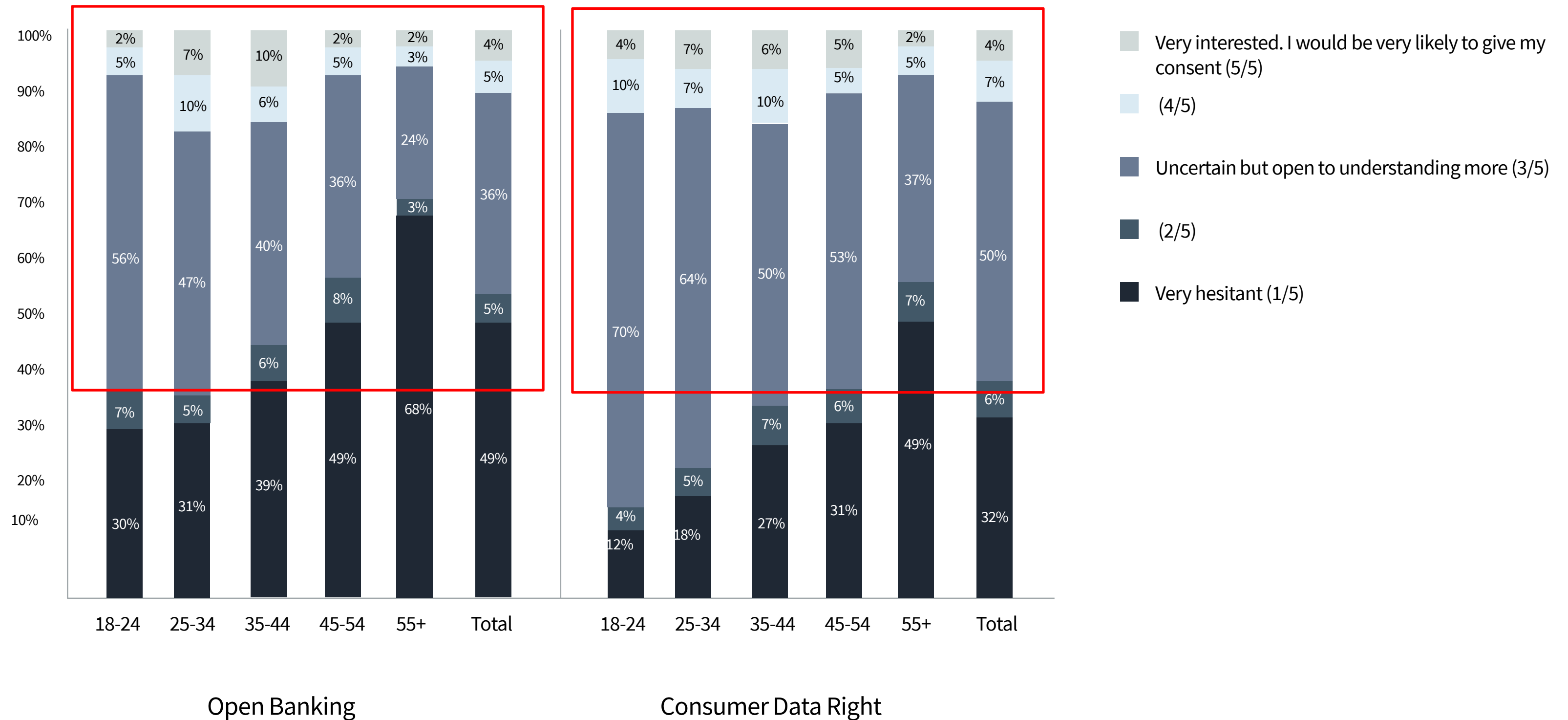
Humaniti - “I was interested to see how it would work as a way of aggregating my financial information”

WeMoney - “To see my net worth in one app”



While just 1 in 10 consumers are interested in sharing their data under Open Banking/ CDR, a large proportion of the population are open to understanding more

HAVE YOU HEARD THE FOLLOWING TERMS? BY AGE

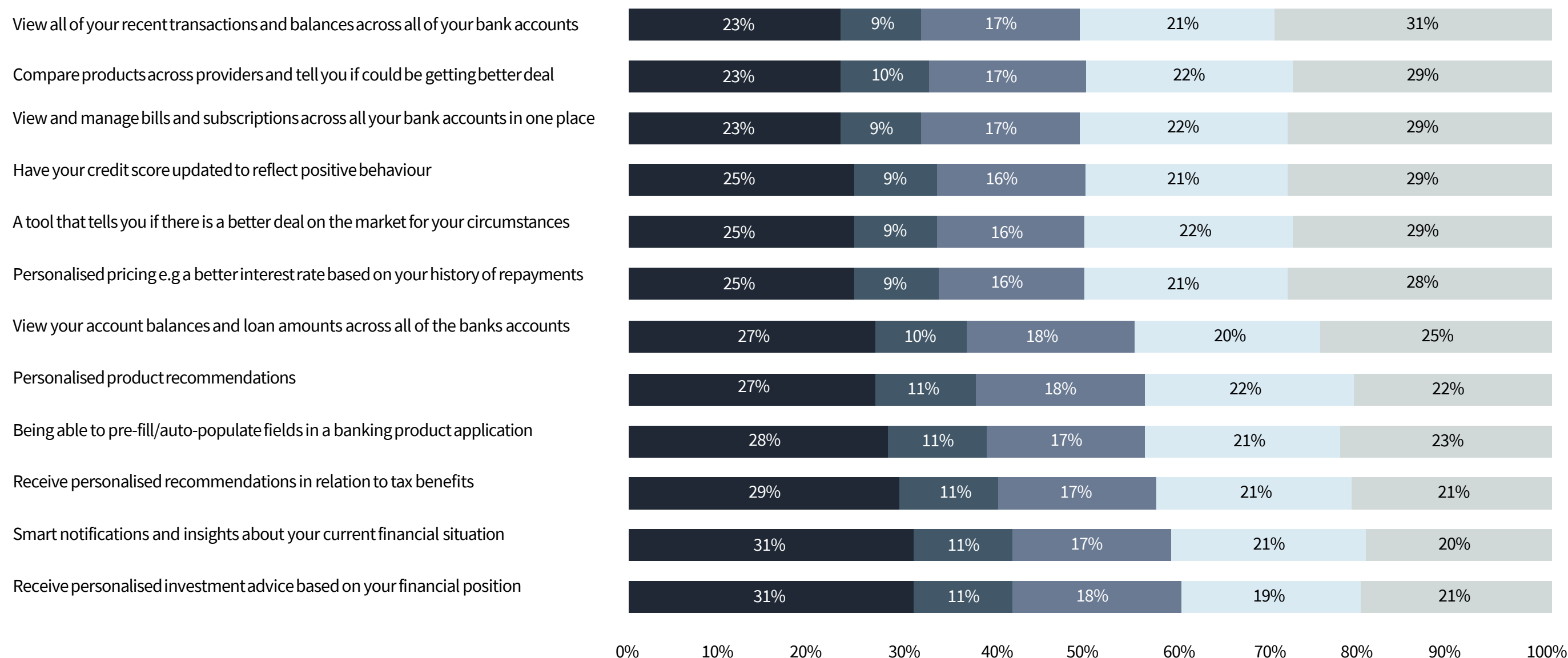


**Key use cases for Open Banking:
Solving customer
problems around
financial management**

Demonstrating key use cases will be key to driving uptake of Open Banking services in Australia

HOW APPEALING DO YOU CONSIDER THE FOLLOWING BENEFITS / SERVICES WHICH COULD BECOME AVAILABLE TO YOU UNDER THE CONSUMER DATA RIGHT?
 IN ORDER TO ACCESS THESE BENEFITS YOU WOULD NEED TO GIVE THE SERVICE PROVIDER ACCESS TO YOUR BANKING DATA

Not appealing at all (0-2/10)
 (3-4/10)
 (5/10)
 (6-7/10)
 Highly appealing (8+/10)

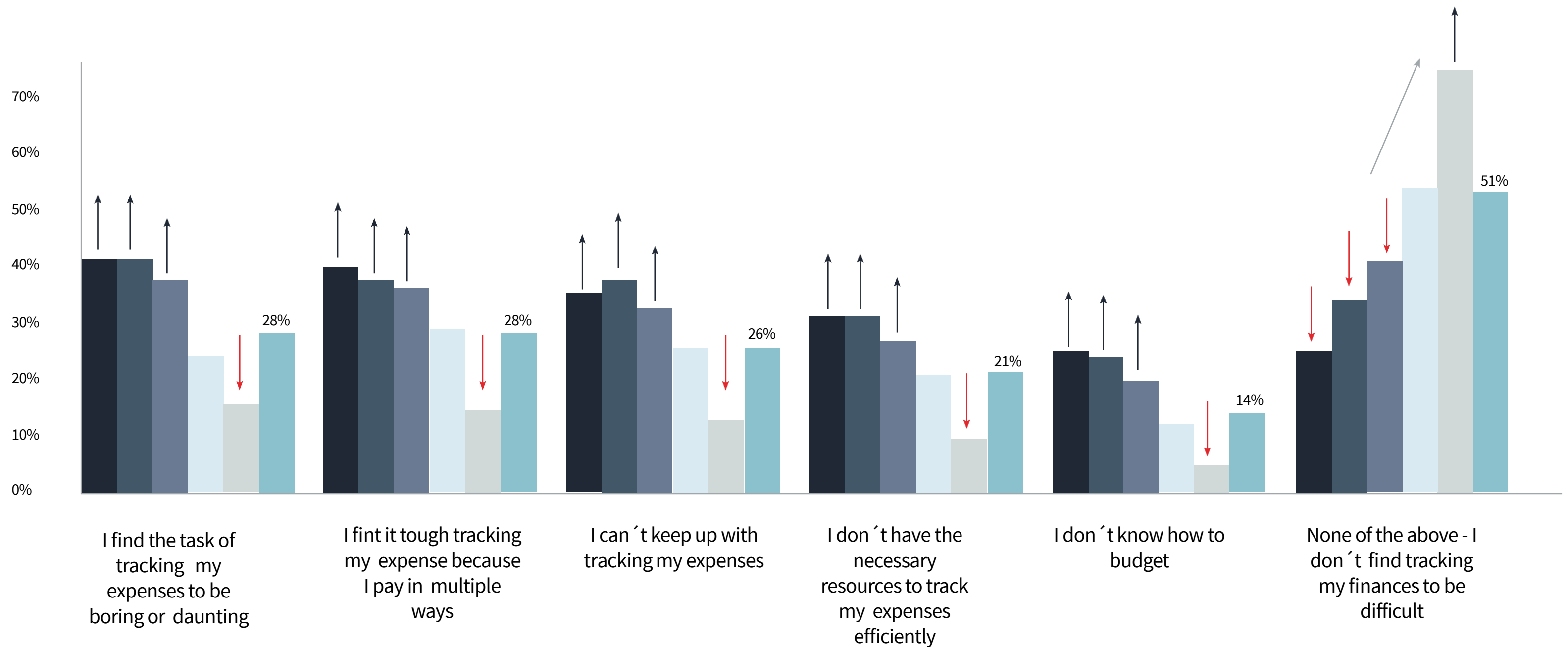


1 in 2 Australians struggles to manage their finances, this proportion is significantly higher among younger Australians

WHAT DO YOU FIND MOST DIFFICULT ABOUT BUDGETING AND KEEPING TRACK OF YOUR FINANCES?

RANKED IN TOP 3 - BY AGE

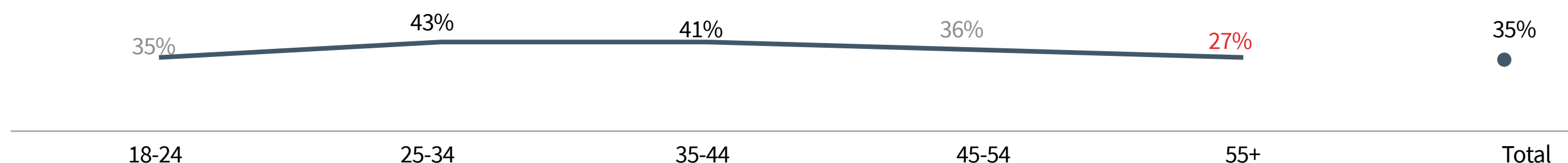
18-24 25-34 35-44 45-54 55+ Total



Younger customers are also beginning to ask for PFM/ functionality and tools from their bank to help them manage their money

PLEASE THINK ABOUT THE PRODUCTS YOU HOLD WITH DIFFERENT FINANCIAL INSTITUTIONS. IS THERE ANYTHING THEY COULD DO BETTER TO SUPPORT YOU IN MANAGING YOUR MONEY?

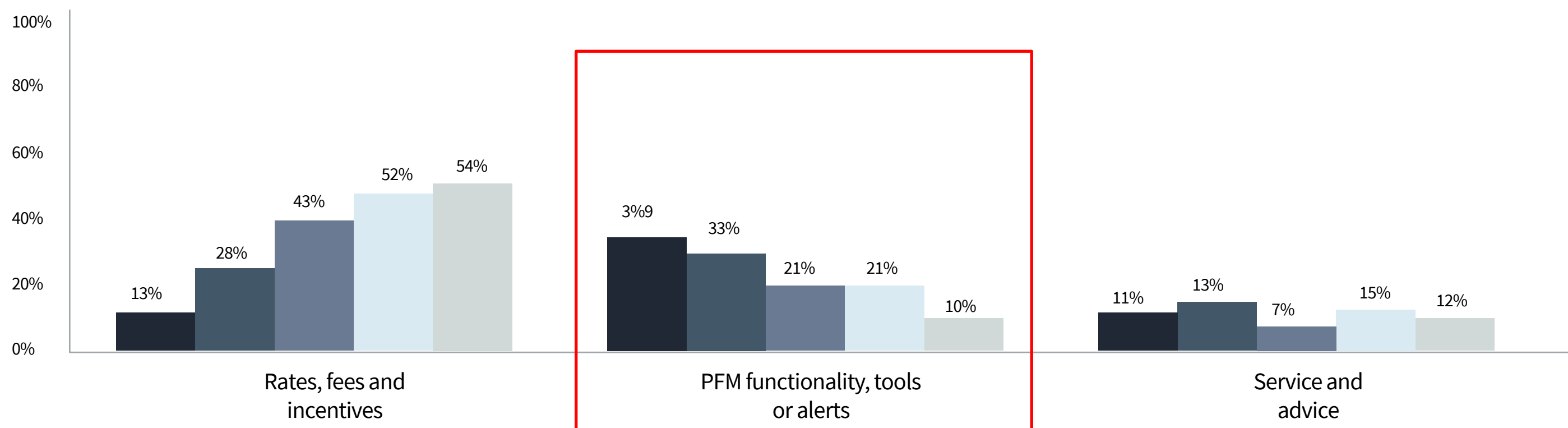
%YES – BY AGE



PLEASE THINK ABOUT THE PRODUCTS YOU HOLD WITH DIFFERENT FINANCIAL INSTITUTIONS. IS THERE ANYTHING THEY COULD DO BETTER TO SUPPORT YOU IN MANAGING YOUR MONEY?

TOP 3 CODED VERBATIM CATEGORIES - CONSUMERS WHO THINK THEIR BANKS CAN DO MORE TO SUPPORT THEM

■ 18-24 ■ 25-34 ■ 35-44 ■ 45-54 ■ 55+



Key Takeaways

1. Awareness of Open Banking/CDR remains low – and understanding of the benefits is even lower
2. Customers are unlikely to share data under CDR without a clear, demonstrable benefit to doing so. As such, increasing awareness of CDR is not as important as increasing understanding of the benefits for customers
3. Supporting customers with PFM/ budgeting is a clear use case for Open Banking that resonates with younger customers in particular. These customers report struggling with managing their finances and are already beginning to ask for access to tools that would give them greater visibility and control of their money



Intelligence to bank on

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